

OCT 26 1988

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted indicates that you were incorporated pursuant to the Not-profit Corporation Act of the State of [REDACTED]. The purposes for which you were organized are, in part:

1. To aid, promote, develop the common good, general welfare, health and safety of the residents and property owners of [REDACTED], a subdivision in [REDACTED] County, [REDACTED].
2. To enforce all covenants and restrictions imposed in [REDACTED] and to collect all assessments and charges provided for in such covenants and restrictions and use the proceeds therefrom for the purposes set forth in such covenants and restrictions and in these Articles.

Your revenues are in the form of assessments levied against the property owners of [REDACTED]. The funds are used exclusively for the improvement and maintenance of the common properties, including a pool and park area.

Your response to our letter dated [REDACTED], was received by this office on [REDACTED] and included the following statements:

"...The park and the pool are not for public use; they are restricted for the sole use of property owners of [REDACTED] and their guests."

"As stated in paragraph 2, the pool is open only to property owners who have paid their annual dues each year."

"We are not nor have we ever been involved in any social or recreational activities."

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic Leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that:

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements."

Revenue Ruling 74-99, 1974-1, C.B. 131 provides that for a homeowner's association to qualify for exemption under section 501(c)(4) it must:

1. serve a community bearing a reasonably recognizable relationship to an area ordinarily identified as governmental, a unit, or district thereof;
2. not conduct activities directed to the exterior maintenance of private residences; and
3. make common areas or facilities available for the use and enjoyment of the general public.

Revenue Ruling 80-63, 1980-1, C.B. 116 provides answers to several questions regarding how the conduct of certain activities would affect exempt status under section 501(c)(4) of otherwise qualifying homeowner's associations. Questions 1 and 2 state the common areas and facilities owned and maintained must be open to the general public.

Because of your statement that you had never been involved in social or recreational activities, we did not consider your application for exemption under section 501(c)(7) of the Code, which applies to social clubs.

Based on the information presented, we have concluded that you do not meet the requirements for tax exemption as a social welfare organization described in section 501(c)(4) of the Internal Revenue Code. The common areas you maintain are not open for use by the general public, but rather are restricted to property owners of Indian Hills Estates and you do not meet the requirements set out in Revenue Ruling 74-99, and clarified by Revenue Ruling 80-63.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(4) of the Code, and you are, therefore, required to file Federal income tax returns on Form 1120.

However, as a homeowner's association, you may qualify for special treatment under section 528, a section of the Internal Revenue Code created by the Tax Reform Act of 1976. We are not ruling on the question of whether you qualify for treatment under section 528 in this letter. If you believe you qualify for such treatment you should file Form 1120-H when due.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and arguments that clearly sets forth your position. If you desire an oral discussion of the

[REDACTED]

issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]  
District Director

Enclosures:  
Form 1120-H  
Publication 892  
Publication 588  
Form 6018